

- (1) Did claimant suffer accidental injury arising out of and in the course of his employment on the date or dates alleged?
- (2) Did claimant provide timely notice of accident?

- (3) Is claimant entitled to unpaid temporary total disability compensation? If so, in what amount and for what weeks?
- (4) Is claimant entitled to unpaid medical expenses?
- (5) What is the nature and extent of claimant's injury and/or disability?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary record filed herein, the Board finds the Award of the Administrative Law Judge should be affirmed.

The Award sets out findings of fact and conclusions of law in some detail, and it is not necessary to repeat those herein. The Board adopts those findings and conclusions as its own.

Claimant alleges accidental injury in August 1999, with some question regarding the specific date.

Claimant's testimony is contradictory regarding not only the circumstances surrounding the accident, but whether he advised anyone with respondent that he had suffered an accident. Additionally, claimant's initial contact with his personal physician, David L. Buller, M.D., and with John Hered, M.D., failed to indicate that his condition had any connection to his employment with respondent. To the contrary, Dr. Buller's notes indicate claimant had a problem for about a year, with progressive worsening. Dr. Hered's initial notes indicate claimant suffered injury "while pulling sheets on a previous job last winter."

Three months after Dr. Hered's initial visit of September 15, 1999, claimant contacted Dr. Hered's office on December 15 and left a message that it was the "broaching" job with respondent in August of 1999 that actually caused claimant's injury and the need for treatment.

The Administrative Law Judge, in a lengthy decision, found claimant's evidence of accidental injury arising out of and in the course of his employment and timely notice to be wanting. The Board agrees. Claimant's allegations of accidental injury and notice are contradicted not only by his own testimony, but also by the medical records of the treating physicians, including his own personal physician.

The Board finds that claimant has failed to prove that he suffered accidental injury arising out of and in the course of his employment and has failed to prove timely notice. Therefore, the Award of the Administrative Law Judge should be affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Bruce E. Moore dated December 5, 2001, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of May 2002.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Randy S. Stalcup, Attorney for Claimant
Ronald J. Laskowski, Attorney for Respondent
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director